

KM 8577

**OFFICE OF COMMISSIONER RACHELLE B. CHONG**  
**Federal Communications Commission**  
**1919 M Street, N.W., Room 844**  
**Washington, D.C. 20554**  
**Telephone: (202) 418-2200**  
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May 3, 1995

**RECEIVED**

**MAY - 8 1995**

The Honorable Jan Smith  
Mayor  
City of Morgan Hill  
17555 Peak Avenue  
Morgan Hill, California 95035

**FEDERAL COMMUNICATIONS COMMISSION**  
**OFFICE OF SECRETARY**

Re: Cellular Telecommunications Industry Association's Petition to  
Preempt State and Local Zoning Regulations

Dear Mayor Smith:

Thank you very much for your letter about the petition filed by the Cellular Telecommunications Industry Association (CTIA). This petition asks the Commission to begin a rule making proceeding to preempt state and local regulation of tower siting for commercial mobile radio service providers, such as cellular and personal communications service (PCS) companies. I am very interested in this issue, and welcomed the opportunity to hear your thoughts on it.

I certainly understand your concerns about the CTIA petition and its impact on the role of local jurisdictions in the cell siting process. Traditionally, cell siting issues are handled at the local level. By and large, this situation has been appropriate, given that zoning and land use issues involve uniquely local concerns, such as aesthetics and compliance with local building codes or other health and safety codes. I believe local authorities should continue to play a key role in these decisions.

However, as the demand for sites for wireless carriers continues to mushroom, I am also concerned about the ability of wireless providers to build out their networks without undue delay. There are many benefits to having national or regional wireless communications systems -- emergency communication abilities are enhanced, and people use wireless communications to become more efficient and productive. Further, new PCS licensees are paying the U.S. treasury billions of dollars for their licenses, which are regional and national in nature. I think it's fair for the federal government to ensure that these licensees are able to build their facilities throughout their service areas in a timely fashion. Moreover, some carriers complain that some localities may like to put a moratorium on all wireless cell sites in

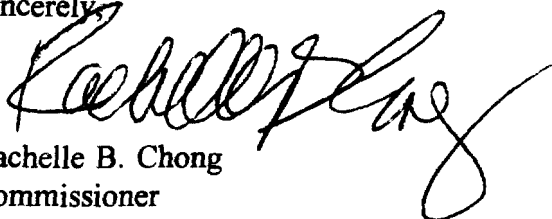
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certain geographic areas. For this reason, I believe the Commission also has an important role to play in this area to ensure ubiquitous and broad coverage without undue delay.

Having said that, I have not yet made any decisions about the CTIA petition. I believe that the Commission must balance the federal interest in ensuring the development of a competitive, efficient mobile services infrastructure against the legitimate interests of local governments in regulating zoning and land use matters. I am open to considering all options available to the Commission to strike the appropriate balance, and hope that you will work with us to find an acceptable solution for both our concerns.

I appreciate your taking the time to share your concerns with me. I will certainly keep them in mind as we consider the CTIA petition.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rachelle B. Chong', written over the printed name and title.

Rachelle B. Chong  
Commissioner



## CITY OF MORGAN HILL

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

**RECEIVED**

**MAY - 8 1995**

April 14, 1995

Commissioner Rachelle Chong  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, DC 20036

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Dear Commissioner Chong:

The City of Morgan Hill strongly opposes the change in regulation of cellular communications facilities which is proposed by FCC case RM 8577. This City in the San Jose area joins other jurisdictions in opposing the change.

Presently the California Public Utilities Commission and individual jurisdictions regulate the locations of cellular antennae and buildings. Since these facilities need line-of-sight contact with distant stations, the facilities tend to be in the most visible locations in each jurisdiction. The visual impacts of towers (up to 100 feet tall) can affect property values and investment in communities. These decisions are most effectively and efficiently made at the local level, with State PUC supervision and coordination. Placing this decision in Washington or a regional Federal office removes local control without a matching increase in the public interest.

The City found it necessary to redirect two cellular utilities in their searches for antenna sites so that El Toro Mountain, the symbol of Morgan Hill, was not marked with the structures. A number of local citizens opposed this site, and a local attorney threatened litigation if the towers were installed. The City is currently working with the utilities to find less impacting sites. Without local control, the impacts on Morgan Hill could have been significant.

Like thousands of cities across America, Morgan Hill needs to retain local control of cellular communications sites. An efficient network of cellular sites will not be interrupted, although a superior site selection process will result from local control. We strongly request your support and intervention in this important matter.

Sincerely,

Jan Smith  
Mayor